

## National Park Service: Golden Gate National Recreation Area: Use of NEPA and Negotiated Rulemaking Act

Technique: Negotiated rulemaking run concurrently with NEPA

The NPS-wide pet regulation requires dogs to be restricted by cage or leash. However, in 1979, the GGNRA Citizens Advisory Commission's developed a voice control dogwalking policy for certain GGNRA areas. GGNRA practices following that, accompanied by an increase in the number of dog walkers and changing expectations for use of the park, have resulted in confusion, controversy and litigation over dog management and voice control dog walking.

GGNRA began to emphasize education and enforcement of the NPS pet regulation parkwide in 2002; however, the regulation was routinely ignored by many park visitors. Park staff were overextended attempting to enforce the NPS regulation, ensure visitor (and dog) safety, maintain areas heavily used by dogs, and monitor and prevent resource damage.

A 2005 decision by the U. S. District Court for the Northern District of California affirmed a dismissal of three citations for violations of the NPS leash regulation. The decision noted that the 1979 dogwalking policy had been in effect in the park for many years, and that prior to enforcing the NPS-wide leash regulation a formal public notice and comment was required per the Code of Federal Regulations, but had not been carried out by the park.

To address the growing difficulties surrounding dogwalking, GGNRA chose to initiate both a negotiated rulemaking process and a planning process to decide how best to manage dog walking in the park. Together, these processes will result in a dog management plan/Environmental Impact Statement (EIS). The purpose of the negotiated rulemaking committee, representing the diverse interests likely to be affected by a dog management plan, is to maximize stakeholder input into the planning process. The committee will work to develop consensus recommendations to the park about where it may be appropriate to allow dogwalking in GGNRA managed lands. The park intends to integrate the recommendations of the committee's efforts into one or more alternatives for analysis in the EIS. This approach brings affected groups into the process at an early stage so they can share in the decision making and also share responsibility for the outcome. Additionally, the negotiated rulemaking process is under the direction of facilitators, which allows the park to be repositioned as a stakeholder in the process, rather than the primary target in the conflict between user groups.,

The National Park Service has taken the further step of conducting the NEPA process concurrent with the negotiated rulemaking process, rather than to complete the Negotiated Rulemaking process followed by the NEPA analysis. Conducting both processes together allows information sharing —the Committee benefits from both the information and guidelines developed for the NEPA analysis, while the NEPA team is able to stay abreast of the Committee's discussions as they work on their recommendations. Additionally, the concurrent timeline should shorten the time needed to implement a new rule.

The Negotiated Rulemaking Committee was established by the Secretary of the Interior in February 2005, with a charter that allows them to meet for two years. The first year of the Committee's discussions involved determining how they would conduct their discussions, learning about the park's resources and giving input into the NEPA Scoping process. In May 2007, they were in their 16<sup>th</sup> month of their charter, developing proposals for dogwalking at various park sites, and also discussing the characteristics under which dogwalking may take place in GGNRA. Those characteristics include barriers, not disturbing other visitors, allowing the wildlife to use the park free from harassment and having dogs under "control." The proposals are due to the park in July 2007. The NEPA team will then begin impact analysis on the alternatives. Any viable proposals (acceptable according to all legal requirements and policy guidelines) will be incorporated into the alternatives at this stage. A Draft EIS is due out for public comment in winter/spring of 2008.